

# **EXHIBIT 44**

# Berks Family Residential Center

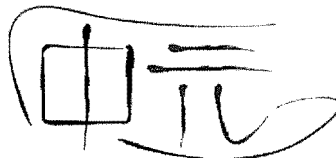
## Bi - Annual Compliance Review Report

Prepared for:



Department of Homeland Security (DHS)  
Immigration Customs and Enforcement (ICE)  
Office of Detention and Removal (DRO)  
Juvenile and Family Residential Management Unit (JFRMU)

By:



The Nakamoto Group, Inc.

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## **BACKGROUND:**

### **Berks Family Residential Facility**

U.S. Immigration and Customs Enforcement (“ICE”) established the Berks Family Residential Facility (“Berks”) in March 2001. Designed as a non-secure residential facility to accommodate the unique needs of undocumented children and their families, Berks became the first of its kind in the U.S. dedicated to keeping families and children together while undergoing immigration proceedings.

Located in Leesport, PA, the eighty-five (85) bed facility that was once a nursing home is nestled in a quiet, small-town community. Berks, along with the 512 bed T. Don Hutto Family Residential Facility (“Hutto”) in Taylor, Texas (established in May 2006), provides non-violent, non-criminal families with a variety of supportive services throughout their stay. Some of these services include:

- Access to on-site, routine medical, dental and mental health care provided by the Division of Immigration Health Services (“DIHS”);
- Educational courses for school age children 5 days per week;
- English as a second language (ESL) classes for adults;
- Age and culturally and linguistically appropriate recreational activities for residents;
- On-site spiritual support ; and
- On-going access to case management services which ensures each resident has access to legal services and social supports.

In addition, each facility is staffed with professionals, paraprofessionals, and officers who undergo training in areas related to the Family Residential Standards (“Standards”) to ensure the provision of safe and humane care to residents.

### **Compliance Support**

Since September 25, 2007, the Nakamoto Group has provided contractor and compliance support services to the Juvenile and Family Residential Management Unit (“JFRMU”) of the Office of Detention and Removal Operations (“DRO”). Created in March 2007, JFRMU serves to optimize DRO’s ability to manage ICE’s immigration policy as it pertains to undocumented and unaccompanied children and their families. To fulfill part of this mission and to ensure the highest level of care and treatment for residents within ICE custody, the JFRMU contracted the services of the Nakamoto Group to assist with providing support and consultation in the areas of family services, education, primary and mental health care, youth and adolescent care and development, and facility development and compliance.

Presently, the Nakamoto Group continues to provide compliance support services to the JFRMU which is inclusive of routine facility inspections, annual compliance reviews, consultation services, and specialized compliance support services. In April 2008, for instance, for eight (8) weeks, the Nakamoto Group's Juvenile and Corrections Subject Matter Experts ("SMEs") provided on-site and telecommuting guidance in several areas, to include: policy and procedure development; fire safety and inspections; resident intake and orientation procedures; and recruitment and training needs. The SME worked closely with Berks facility administrators and staff providing recommendations for facility and service enhancement. Most recently, the JFRMU requested and obtained the assistance of a full-time Compliance Reviewer to provide additional specialized support services, including monthly inspections of each Family Residential Facility. In addition to reviewing areas of the facility each month for compliance, a monthly report of findings is also submitted to the JFRMU to aid facilities in their on-going efforts to achieve 100% compliance with the Family Residential Standards. Finally, as it is JFRMU's personal mission to have each facility achieve 100% compliance, a bi-annual compliance review process was implemented. Hence, approximately every six (6) months, the Nakamoto Group conducts a full review of each Family Residential Facility and provides a report of findings to the JFRMU. This report follows the second review of the Berks Family Residential Facility and includes a summary of findings.

#### Summary of Previous Findings

During the week of July 14<sup>th</sup> - 17<sup>th</sup> 2008, six (6) members of the Nakamoto Group's Compliance Review Team ("Team") completed the first compliance review of the Berks Family Residential Facility. The Team was impressed with the strides Berks made in incorporating recommendations from the specialized compliance support services provided in April 2008, as well as additional enhancements and revisions to the facility. Utilizing an older rating system, Berks achieved 78% compliance by obtaining a rating of "Exceptional" or "Standard" (translating as "Compliant" with the current rating system<sup>1</sup>) on 29 of the 37 Family Residential Standards. Eight (8) of those Standards were rated as "Inadequate" (translating as "Not Compliant" with current rating system) during the baseline review. (Reference *Matrix A* for an overview of rated Standards).

Recommendations for enhancements were provided by the Compliance Review Team and both Berks and ICE administrators worked to incorporate recommendations. Following is an overview of the second and most recent review of the facility. It is the hope of the Nakamoto Compliance Review Team that ICE/JFRMU staff and Berks administrators find the information presented in this report to be beneficial to the ongoing development and compliance attainment of the facility, as well as the continued care of its residents.

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<sup>1</sup>The older rating system included a four (4) item compliance scale consisting of "Exceptional", "Standard", "Minimal", and "Inadequate" ratings. These ratings indicated the facility's level of compliance as compared to the requirements outlined in the Family Residential Standards ("Standards") established on December 21, 2007.

## OVERVIEW

### Bi-Annual Compliance Review

During the week of February 17<sup>th</sup> – 20<sup>th</sup>, 2009 five (5) members of the Nakamoto Group's Compliance Review Team ("Team") conducted a bi-annual review of the Berks Family Residential Facility. Members of the Team included the following Subject Matter Experts ("SMEs"):

- [b6] **Program Manager/ Team Leader**  
*Certified Financial Planner (C.F.O.)*
- [b6] **Program Analyst/Mental Health SME**  
*Doctor of Education, Candidate (Ed.D.(c))*  
*Master of Social Work (MSW)*  
*Licensed Independent Clinical Social Worker (LICSW)*
- [b6] **Juvenile Correction SME**  
*Master of Education in Psychology (M.Ed.)*  
*Bachelor of Arts in Psychology (B.A.)*  
*Certified Alcohol and Substance Abuse Counselor*
- [b6] **Medical SME**  
*Medical Doctor (M.D.)*  
*Doctor of Philosophy in Environmental Biology (Ph.D.)*  
*Master of Public Health (M.P.H.)*
- [b6] **Education & Development SME**  
*Early Childhood Education- All But Dissertation (ABD)*  
*Master of Arts Early Childhood Education (M.A.)*  
*Bachelor of Arts Public Administration (B.A.)*

### Compliance Ratings

As indicated previously, to conduct the review, the Team utilized a revised version of the Facility Compliance Monitoring Tool ("Monitoring Tool"). The revised Monitoring Tool was modified to include a two (2) item response scale consisting of "Compliant" and "Not Compliant" ratings. In addition, where the previous Monitoring Tool utilized a quantitative scoring system to determine degree of compliance, the revised version omitted quantitative indicators as it is the goal of the JFRMU that facilities achieve compliance for 100% of items. Hence, the following operational definitions were developed:

- **Compliant** –Facility is operating as required for this Standard and is found to be compliant in the majority of target component areas for this Standard. Minimal, if any, suggestions are indicated and are not vital to effective operation of the facility.
- **Not Compliant** - Facility is not operating as required for this Standard and has less than majority compliance in target component areas for this Standard. Facility is recommended to

implement suggestions within 90 days of site visit report. Documentation of implementation to be received by ICE/DRO within 90 days. Revisit of facility may be warranted.

Further, the revised version of the Monitoring Tool also includes a “Life Health Safety” or “LHS” component document. Developed as a succinct way to review the most critical operational areas of the facility, the LHS document is compiled of component items derived from select ICE/DRO Family Residential Standards (Reference “LHS Components” attached) and replaces the quantitatively scored “Critical Components” section utilized in previous versions of the Monitoring Tool. In general, LHS components are considered to be those by which non-compliance may *significantly*:

- Impair the health and safety of residents and/or staff;
- Diminish the basic quality of life afforded to residents; and
- Undermine the mission and mandate of JFRMU to appropriately manage ICE’s immigration policy as it pertains to undocumented families with children and protecting their safety and dignity.

Rating of the LHS document followed the “Compliant” and “Not Compliant” format with a preponderance of “Not Compliant” ratings resulting in an overall rating of “Not Compliant” for LHS. Per the JFRMU, such a rating warrants a 15-30 day plan of action response by the facility following receipt of report.

#### Organization of the Report

This report provides outcomes and recommendations regarding the Berks review based upon the assessment of the thirty-seven (37) Family Residential Standards in accordance with the aforementioned rating scale. Included in this report are (in-order):

1. Areas of Best Practice
2. Summary of findings
3. Recommendations for Improvement

#### AREAS OF BEST PRACTICE

Review and observation of the facility’s operation revealed that Berks administrators, along with ICE officials, continue to strive to implement recommendations as well as maintain previous levels of best or standard practices. As found previously, several areas of facility operations were found to be well above Standard requirements by way of implementation and practice. These areas are cited as “Best Practices” for a juvenile and family care facility and include the following:



### Recreation

Recreation continues to be a strong program within the facility and a model program for a children and family residential center. The program is well organized, services are tailored for specific age groups, and all services are appropriately and thoroughly documented. The program has also involved the community in previous endeavors and has established plans to continue encouragement of community involvement.

### Religious Practices

The Religious Services program at the Berks facility is one that is of significant importance to residents. As such, the facility contracted a full-time chaplain to provide services for residents and to ensure spiritual needs are addressed. Since his beginning with the facility approximate seven (7) months ago, current residents reference the Chaplain, and the ability to freely engage in religious practices, as being significant sources of support. Volunteers are also in place to provide additional spiritual support services (e.g., Mass services); making the Religious Services program a strong and vital component within the facility.

### **SUMMARY OF FINDINGS**

Overall, Berks continues efforts to incorporate recommendations as well as feedback from consultants and ICE/DRO/JFRMU to enhance facility operation and services. Such implementation has led to Berks rating as “Compliant” in 30, or 81%, of the 37 assessed domains (not including the LHS items; reference Matrix B for performance summary). A complete outline of findings is as follows (in alphabetical order):

**COMPLIANT:** *The following 30 Standards were rated as “COMPLIANT”:*

1. Contraband
2. Correspondence and Other Mail
3. Discipline and Behavior Management
4. Environmental Health and Safety
5. Escorted Trips for Non-Medical Emergencies
6. Funds and Personal Property
7. Grievance System
8. Hunger Strikes
9. Key and Lock Control
10. Law Libraries and Legal Materials
11. Legal Rights Group Presentations

12. Marriage Requests
13. Medical Services
14. News Media Interview and Tours
15. Personal Hygiene
16. Post Orders
17. Recreation
18. Religious Practices
19. Resident Census
20. Resident's Files
21. Searches of Residents
22. Staff Hiring and Training
23. Staff-Resident Communication
24. Telephone Access
25. Terminal Illness and Advanced Directives
26. Tool Control
27. Transfer of Residents
28. Transportation (Land)
29. Use of Physical Force and Restraints
30. Visitation

**NOT-COMPLIANT:** *The following 8 items were rated as "NOT COMPLIANT" (7 of the Standard items plus Life, Health and Safety)*

1. Admissions and Release
2. Educational Policy
3. Emergency Plans
4. Food Service
5. Housekeeping and Voluntary Work Program
6. Life, Health and Safety (LHS) Critical Components

7. Sexual Abuse and Assault Prevention and Intervention

8. Suicide Prevention and Intervention

**RECOMMENDATIONS FOR IMPROVEMENT**

The following section provides recommendations to improve facility operations based upon the Family Residential Standards. Designed to accompany the completed Monitoring Tool (attached), and therefore not exhaustive of items found to be non-compliant, this section highlights components that are suggested as priority when developing a corrective plan of action. Section A provides compliance recommendations for those Standards rated as “Not-Compliant”, to include areas deemed by the Team as *critical* areas of focus. Section B provides compliance recommendations for those Standards rated as “Compliant”. While not necessarily considered critical, these recommendations support guidelines as indicated in the Standards and will serve to enhance facility operations.

**SECTION A:**

**Not Compliant Ratings**

Life, Health and Safety (LHS) (CRITICAL)<sup>2</sup>

*Areas of non-compliance:*

- One of the washbasins and showers in the men’s restroom was found to have only cold water. Another shower area found the temperature to be 87 degrees Fahrenheit (below the required 100-120 degrees Fahrenheit). Although staff indicated they had received complaints about water being too hot in the facility and adjusted temperatures accordingly, the work order had not been resolved to allow for corrected water temperatures and the availability of hot water at the time of the review (Reference: Personal Hygiene, p. 3; #5).
- Arriving residents do not receive a handbook that details the facility rules in a language the resident understands. Although handbooks exist within the facility, they are only provided in English and residents are not provided with individual copies. Instead, one copy is provided for each residential wing within the facility. The present handbook is being translated in Spanish. However, due to the length of time (7 month) that the handbook has been out for translation, some of the information contained will require updating. In addition, residents are not provided with a formal orientation of the facility operations. Although forms are provided for residents to sign, a full overview regarding

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<sup>2</sup> Due to the critical nature of the overall LHS components, it is listed first in order of Non-Compliance.

facility operations, rules, guidelines, tour of facility, introduction to staff, etc...is not provided (Reference: Admissions and Release, p. 7; #6; p. 7, #5.).

- Arriving residents receive a medical screening upon intake; however, in accordance with the Standards and the facility's policy, residents are not screened with any "immediacy" or within the one hour time period outlined within the facility's policy. In addition, intake mental health screenings are not conducted by an appropriately trained staff person or licensed health care provider (Reference: Admissions and Release, p. 6, section h; Medical, p. 13, section 9c).
- The facility does not have an emergency plan that is in line with Standard requirements. Although the facility has developed a policy and is in the process of implementing a plan, at the time of the review, effective practices and procedures, to include training and annual drills, were not in place (Reference: Emergency Plans, p. 1, Section II.2; p. 10, Section n).
- Environmental Health policy and practices do not include fire prevention control and evacuation plan and a chemical control plan (Reference: Environmental Health and Safety, p. 1, Section II, #2).
- Non-inventoried chemicals were located on the facility's premise. (Reference: Environmental Health and Safety, p. 11; Section II, #2).
- b2 high, b7e

b2 high, b7e

 (Reference: Key Control, Section V.6.).
- Health areas do not have their own designated perimeter with restricted access. Due to current facility logistics, medical exam areas are not isolated. Instead, exam areas are along a main corridor of the facility permitting easy viewing in rooms when doors open. In addition, waiting areas for medical services are also located along a main corridor of the facility. (Reference: Medical Care, p. 8, Section 4a).

*Recommendations:*

- Prioritize completion of the work order to ensure hot water is available and at a temperature comfortable for residents.
- Provide individual copies of resident handbooks to residents upon entry and ensure copies are available in a language the resident understands.
- Develop a formalized orientation/intake process to include, *at a minimum*: screening of residents for mental health concerns by appropriately trained or licensed health care provider; tour of facility for new residents; full overview of facility operation and

guidelines; introduction of new residents to staff members; and training of all staff on intake procedures, to include cultural awareness and sensitivity issues.

- Implement and provide training on Emergency Plans.
- Update Environmental Health policy and ensure practices include fire prevention control and evacuation plan and a chemical control plan.
- [REDACTED] b2 high, b7e
- Per discussions with staff, revisions continue to be underway at the facility to allow for a private health care area for medical staff and residents. To ensure resident privacy and minimize health concerns, priority of this task is recommended.

### Admissions and Release

#### *Areas of non-compliance:*

- **CRITICAL:** The Admissions and Release policy does not include a reference indicating searches of children without a parent are not permitted (Reference: Admissions and Release, Section V.C.)
- **CRITICAL:** [REDACTED] b2 high, b7e  
[REDACTED] b2 high, b7e (Reference: Admissions and Release, Section V.C.).
- For lost property claims, the facility provides residents with a staff request form and requests are responded to by ICE staff; however,, staff do not document lost property claims by residents in files (Reference: Admissions and Release, Section V.f.).

#### *Recommendations:*

- Update facility policy to ensure all staff are aware of and practice dictates that [REDACTED] b2 high, b7e  
[REDACTED] b2 high, b7e
- Discontinue practice of [REDACTED] b2 high, b7e  
[REDACTED] b2 high, b7e
- Update practices to ensure appropriate documentation of lost property claims by residents.

## Educational Policy

### *Areas of non-compliance:*

- **CRITICAL:** Pre-kindergarten instruction is not provided to eligible four-year-old children. A resource room is available for children five years of age and for children in need of English as a Second Language (ESL) services and/or more academic preparation (Reference: Educational Policy, p. 2; Section 1h).
- Documentation of educational staff training was not available at time of review. Documentation is maintained in educator files off site (Reference: Educational Policy, p. 5, Section 6f; p. 7, Section 11a).
- Special needs educational assessments are not administered to each student upon arrival (Reference: Educational Policy, p. 2; Section 1g).
- Library holdings are not sufficient in quantity or language diversity for resident's use (Reference: Educational Policy, p. 6, Section 8a).
- A bookmobile is used in lieu of an on-site residential library. The Standards mandate an on-site library be available and an offsite system is not used as an alternate (Reference: Educational Policy, p. 6; 8b).

### *Recommendations:*

- Adapt educational program to provide pre-kindergarten and kindergarten services as required for eligible children four-year olds and up.
- Obtain copies of staff training and other relevant documents and maintain on-site in staff files.
- Develop a formalized system to conduct special educational needs assessments for all school-age residents.
- Collaborate with community resources to enhance diversity and availability of books for resident's use on-site.

## Emergency Plans

### *Areas of non-compliance:*

- **CRITICAL:** The facility has developed an emergency plan *policy* and made contacts with local responders. However, the policy does not take the place of a well written, well rehearsed, and well critiqued emergency plan (Reference: Emergency Plans: Section V.3.a.2).

- Documentation of once a month emergency list call-down procedure is not available (Reference: Emergency Plans: p. 7; Section C).
- Although a policy has been developed, several specified areas of security and other planning components are not included (Reference: Emergency Plans: p. p. 5; p. 6; p. 6; Section V.B; Section V.J., Section V.M.).

*Recommendation:*

- The facility has not developed a local emergency plan but has been part of a county wide emergency system. While this serves to support the facility, it does not provide the level of preparedness required in the facility as required by the Standards. Priority in the development of a facility-specific Emergency Plan and training on such plan is warranted.

Food Service

*Areas of non-compliance:*

- **CRITICAL:** Timelines from the evening meal to breakfast exceed the timelines as established by the Standard (no more than 14 hours) (Reference: Food Service, p. 6; Section 4a).
- **CRITICAL:** Maintenance of information regarding resident's medical diets does not meet Standard requirements. For instance, facility staff receive notification from residents regarding special dietary needs. Food Service staff (who are located in another facility) obtain resident dietary information from facility staff. Due to lack of effective communication, food service staff do not maintain updated information regarding residents' dietary needs. (Reference: Food Service, p. 16; Section 7a)
- **CRITICAL:** Menus at the facility are changed without consideration of two hot meals per day and with no documentation provided to show changes – resulting in meal selections that are not being appropriately reviewed for nutritional needs/content as required by the Standards. (Reference: Food Service, p. 17, Section 8b).
- A kosher meal system is not in place to meet the needs of participating residents (Reference: Food Service, p. 12; p.15, #2).
- Residents working in the food service area (sanitation) are not provided with training and a supervisor is not assigned to the dining area (Reference: Food Service, p. 4, Section c; p. 7, Section b).

*Recommendations:*

- Establish a timeline for meals that minimizes the 14 hour gap between the evening and breakfast meals. Presently, serving dinner at 4:30 P.M. should be reviewed to consider later evening feeding.
- Establish a system of communication and accountability that ensures resident's medial and religious meal needs are met.
- Work with licensed nutritionist to develop menu items and ensure a system of accountability whereby menu changes must be reviewed and signed off on by the Facility Administrator with notification to ICE as to when and why menu was changed.
- Provide training to residents working in food service and other areas of the facility and ensure documentation of training is maintained. In addition, assign a supervisor to oversee the dining area during meals.

Housekeeping and Voluntary Work Program

*Area of non-compliance*

- **CRITICAL:** Appropriate training is not available for all residents. For instance, the facility has a limited number of residents that are assigned mainly to the kitchen area sanitation employees. Resident's files did not include required training, job descriptions, and agreements required by the Standards. The facility also has a house keeping plan that requires all adult residents to clean various areas of the facility on a rotating basis, however, training on chemicals was not provided in areas such as "Right to Know" as required by OSHA and the State laws (Reference: Housekeeping and Voluntary Work Program, Section V. 11).

*Recommendation:*

- In accordance with the Standard, ensure all residents are provided appropriate training in areas of work. Include documentation of training in residents' files.

Sexual Abuse and Assault Prevention and Intervention

*Areas of non-compliance:*

- **CRITICAL:** The training coordinator has been assigned as the Sexual Abuse Coordinator. However, the training coordinator is not on-site to ensure ongoing availability to residents (currently located at Juvenile Facility). Additionally, residents are not aware of policies or information regarding sexual abuse and sexual harassment. Documentation is provided on a laminated board near the phone areas in each wing and documents are signed during intake, however verbal discussion regarding resident rights and behavioral expectations while at the facility is not provided to residents. (Reference: Sexual Abuse and Assault Prevention and Intervention, page, 3; paragraph 3; C).



- The facility follows both its own and DIHS national policy. However, the policies are not clear regarding the provision of prevention (e.g., discussion of residents' rights) or discipline/prosecution of assailants. (Reference: Sexual Abuse and Assault Prevention and Intervention, page, 2; Section B).
- Facility policy does not include ICE/DRO and JFRMU as contacts in the event of allegations of sexual misconduct (Reference: Sexual Abuse and Assault Prevention and Intervention, page, 6; #2).

*Recommendations:*

- Officially appoint a coordinator for the Sexual Abuse and Assault Prevention program who, *at a minimum*: is on-site and available for residents and staff; has appropriate background/training/credentials in topic area; is in charge of ensuring resident's awareness of rights and responsibilities; and who collaborates with staff in the development and review of site specific policies, orientation programs, and trainings.
- Facility staff and DIHS collaborate to develop a clear, site specific policy that addresses requirements indicated in the Standards.

Suicide Prevention and Intervention

*Areas of non-compliance:*

- **CRITICAL:** A suicide/homicide screening is currently conducted at resident intake; however, this screening is not a standardized screening tool/assessment and is not conducted by specially trained staff or a licensed health care provider.
- The date of the last policy revision was 2005. The Standard requires an annual review (Reference: Suicide Prevention and Intervention, page 1; Section V1).
- The suicide and prevention training program did not include requisite components such as guidelines for returning a previously suicidal resident to the general population (Reference: Suicide and Prevention Intervention, pages 1-2).

Recommendations:

- Include DIHS staff members in the intake screening process and/or provide specific, ongoing training for designated intake staff in the area of Suicide Prevention and Intervention to include, at a minimum: practice, observation, and cultural and linguistic sensitivity. Additionally, incorporate the use of standardized screening/assessment tools.
- DIHS and ICE/JFRMU collaborate to develop an institutionally-based Suicide Prevention and Intervention policy that meets the requirements outlined in the Standard, to include an annual review.

## **SECTION B:**

### **General Compliance Recommendations (in alphabetical order)**

#### Contraband

##### *Area of non-compliance:*

- A review of contraband definition and policies and procedures are not provided to residents at intake (Reference: Contraband, Section II.4).

##### *Recommendation:*

- Develop a formalized orientation process to include review of specific topics, such as contraband, as required by the Standards.

#### Discipline and Behavior Management

##### *Areas of non-compliance:*

- Current rules established for facility residents do not distinguish between age appropriate behaviors for children and adults (Reference: Discipline and Behavior Management, p. 3, paragraph 5).
- The behavior management program does not include systemic feedback from staff to each resident as required by the Standard. (Reference: Discipline and Behavior Management, p. 3, paragraph 4).
- Although a policy is in place, low level rule infractions are not investigated (Reference: Discipline and Behavior Management, p. 8, MRC)

##### *Recommendations:*

- Develop rules/codes of conduct that account for and distinguish between age appropriate behaviors. Ensure rules/codes of conduct are reviewed verbally with staff and residents and ample opportunities are provided for residents to seek clarification. Also, ensure rules/codes of conduct are posted conspicuously in languages residents understand.
- In accordance with the Standards, incorporate a systemic feedback system from staff to residents as part of the behavior management program.
- Develop practice that follows policy guidelines with regard to investigation of infractions. Ensure full documentation of practice in residents' file and develop practice that ensures residents understand of processes and outcomes.

## Environmental Health and Safety

### *Area of non-compliance:*

- **CRITICAL:** During the review, chemicals were found in the food service area that did not have accompanying Material Safety Data Sheets (MSDSs) as required by the Standard and the Occupational Health and Safety Administration.(OSHA) (Reference: Environmental Health and Safety, Section V.3a).

### *Recommendation:*

- Ensure all chemicals are appropriately recorded in accordance with Standard and OSHA law. Conduct mandatory staff training to review importance of adherence to policy and following Standard and OHSA guidelines.

## Resident Census

### *Area of non-compliance:*

- During the e review, records found the facility to be in compliance with the Standard requirement of [REDACTED] b2 high, b7e However, residents' doors were opened at 6:00 a.m. to begin census, although breakfast did not begin until 7:30 a.m. and school later. While adhering to the Standard, this domain was found non-compliant as practice was not in line with the intention of establishing an "orderly" census for residents (Reference: Resident Census, Section V.1).

### *Recommendation:*

- Staff were made aware of this issue at the time of the review and have made plans to take corrective action. Follow up on actions taken and documentation to ICE/JFRMU is recommended.

## Staff Hiring and Training

### *Area of non-compliance:*

- The cultural and linguistic competency and cultural diversity training programs warrant additional development (Reference: Staff Hiring and Training p. 8; Section B).

*Recommendation:*

- Utilize community resources (e.g., local cultural diversity groups/programs), facility staff and resources (e.g., DIHS Mental Health providers), and other sources of support to strengthen and implement on-going cultural and linguistic competency training for staff.

Transportation

*Area of non-compliance:*

- Transportation post order and emergency plan does not include all information as required by the Standard (Reference: Transportation [Land Transportation], pp. 11-13).

*Recommendation:*

- Update post order and emergency plan accordingly.

**SUMMARY**

The Bi-Annual Compliance Review of the Berks Family Residential Center revealed that facility administrators and ICE/JFRMU staff continue efforts toward achieving 100% compliance. ICE/JFRMU's diligence of instituting a full-time compliance reviewer to assist the facility by having monthly inspections will serve to aid the facility compliance efforts. In addition, the care and compassion displayed by staff for residents, the ongoing interaction between staff and residents, and the consistent communication between ICE/JFRMU and Executive facility staff all contribute to the structural and procedural enhancements that are evident since the first review.

Overall, Berks' greatest asset continues to be its staff. With the addition of DIHS personnel for medical and mental health services and the religious staff to address the on-going spiritual needs of residents, the facility is beginning to branch out in the provision of more comprehensive and innovative services. Combining this with the implementation of recommendations provided in the report could aid the facility in achieving its goal of 100% compliance in the future.

**MATRIX B: Performance Matrix Summary of Findings from Bi-Annual Review**

**Berks Family Residential Facility**  
**Bi-Annual Compliance Review Performance Matrix**  
 February 2009

Standard	Compliant	Not Compliant
Admissions and Release		X
Contraband	X	
Correspondance	X	
Discipline and Behavior Management	X	
Educational Policy		X
Emergency Plans		X
Enviornmental Health	X	
Escorted Trips	X	
Food Service		X
Funds and Personal Property	X	
Grievance	X	
Housekeeping/Volunteer Work		X
Hunger Strikes	X	
Key and Lock Control	X	
Law Libraries	X	
Legal Rights Group	X	
Life, Health and Safety (LHS)		X
Marriage Requests	X	
Medical Care	X	
News Media and Tours	X	
Personal Hygiene	X	
Post Orders	X	
Recreation	X	
Religious Practices	X	
Resident Census	X	
Resident's Files	X	
Searches of Residents	X	
Sexual Abuse and Assault Prevention		X
Staff Hiring and Trainig	X	
Staff-Resident Communication	X	
Suicide Prevention		X
Telephone Access	X	
Terminal Illness	X	
Tool Control	X	
Transfer of Residents	X	
Transporation (Land)	X	
Use of Physical Force and Restraints	X	
Visitation	X	

**MATRIX A: Summary of Findings from Baseline Review**

**Berks Family Residential Facility  
Baseline Compliance Review Report**

**Performance Summary Matrix**

Standard	Exceptional	Standard	Minimal	Inadequate
Admissions and Release	X			
Contraband	X			
Correspondance	X			
Discipline and Behavior Management				X
Educational Policy	X			
Emergency Plans				X
Envionmental Health				X
Escorted Trips	X			
Food Service	X			
Funds and Personal Property	X			
Grievance	X			
Housekeeping/Volunteer Work		X		
Hunger Strikes	X			
Key and Lock Control				X
Law Libraries	X			
Legal Rights Group		X		
Marriage Requests	X			
Medical Care		X		
News Media and Tours	X			
Personal Hygiene	X			
Post Orders		X		
Recreation	X			
Religious Practices	X			
Resident Census	X			
Resident's Files		X		
Searches of Residents	X			
Sexual Abuse and Assault Prevention				X
Staff Hiring and Trainig				X
Staff-Resident Communication	X			
Suicide Prevention				X
Telephone Access	X			
Terminal Illness	X			
Tool Control				X
Transfer of Residents	X			
Transporation (Land)		X		
Use of Physical Force and Restraints	X			
Visitation		X		

OFFICE OF DETENTION AND REMOVAL  
FAMILY AND RESIDENTIAL STANDARDS

**SEXUAL ABUSE AND ASSAULT PREVENTION AND INTERVENTION**

**PURPOSE AND SCOPE:** This Residential Standard requires that facilities that house ICE/DRO residents/residents in residential facilities affirmatively act to prevent sexual abuse and assaults on residents, provide prompt and effective intervention and treatment for victims of sexual abuse and assault, and control, discipline, and prosecute the perpetrators of sexual abuse and assault.

**EXPECTED OUTCOMES:** The expected outcomes of this Residential Standard are as follows:

1. Sexual abuse and assault of residents will be prevented.
2. Residents will be informed about the facility's sexual abuse or assault prevention and intervention program.
3. Residents will be screened to identify those likely to be sexual aggressors or sexual victims and will be housed to prevent sexual abuse or assault.
4. All allegations of sexual abuse or assault will be promptly and effectively reported and investigated.
5. If sexual abuse or assault of any resident occurs, the medical, psychological, safety, and social needs of the victim will be promptly and effectively met.
6. Where possible and feasible, a victim of sexual assault will be referred under appropriate security provisions to a specialized community facility for treatment and gathering of evidence.
7. Assailants will be controlled, disciplined, and/or prosecuted.
8. Sexual conduct between staff and residents, volunteers, or contract personnel and residents, regardless of consensual status, will be prohibited and subject to administrative, disciplinary, and criminal sanctions.
9. All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendation for post-release treatment and/or counseling will be retained in accordance with an established schedule.
10. Each facility will separately track incidents of sexual abuse and assault.

## OFFICE OF DETENTION AND REMOVAL FAMILY AND RESIDENTIAL STANDARDS

11. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
12. The standard complies with federal laws and with DHS regulations regarding residents with special needs.

**REFERENCES:** The First National Residential Standards were written using a variety of methodologies including previous and current practices, review and comment from various subject matter experts, review and comment from various government and non-government organizations, and review of current state codes in Pennsylvania and Texas. Each standard is written in a manner that affords each resident admission and continuous housing to a family residential facility in a dignified and respectful manner. There are no specific codes, certifications, or accreditations that deal specifically with unique management requirements of families awaiting the outcome of their immigration proceeding in a non-secure custodial environment.

4-ALDF-4D-22, 4D-22-1, 4D-22-2, 4D-22-3, 4D-22-4, 4D-22-5, 4D-22-6, 4D-22-7, 4D-22-8, 2A-29.

Prison Rape Elimination Act of 2003 (PREA)

### **To determine this rating the reviewer will:**

- Review policy and procedure guidelines
- Interview staff and residents to validate knowledge of policy
- Review resident orientation handbook.
- Review resident files.
- Review housing unit bulletin boards for information.



OFFICE OF DETENTION AND REMOVAL  
FAMILY AND RESIDENTIAL STANDARDS

**PERFORMANCE STANDARDS**

**Policy and Procedures**

Components	Compliant	Not Compliant	Remarks
1. Policies and procedures address: Ref: p. 2; B			
a. Prevention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not clearly outlined in policy
b. Prompt and effective intervention procedures that address the safety and treatment needs of resident victims in case of assault	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Investigation, discipline, and prosecution of assailants	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not clearly outlined in policy(discipline/prosecution)
2. Policy identifies specific site staff resources as well as specialized community based services such as rape crisis/trauma units, clinics and hospitals. Ref: p. 3; para 1; bullet 2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Policy indicates that any staff, contractor or volunteer as alleged perpetrators are to be reported to the facility administrator, highest ranking ICE/DRO representative, JFRMU Chief and the respective Field Office Director. Ref: p. 6; #2	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JFRMU Chief not mentioned in policy. Although contact with ICE/DRO representative is noted (presume appropriate line of communication is from ICE/DRO to JFRMU Chief).
4. Policy and procedure provides guidance on investigation of sexual assault to include treatment and gathering of evidence. Ref: p. 7; para 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

**Staffing**

Components	Compliant	Not compliant	Remarks
5. A coordinator has been designated to oversee the Sexual Abuse and Assault Prevention and Intervention Program Ref: p. 3; C	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Policy indicates training coordinator oversees SAAP Program. However, the training coordinator is not on-site and, therefore, not fully accessible to residents.
6. An ICE staff member is designated to conduct investigations of sexual abuse or assault incidents. Ref: p. 6; j; JFRMU Req.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Policy and procedure manual indicates program manger is responsible for conducting investigations. JFRMU requirement is that ICE staff conduct investigations.

**OFFICE OF DETENTION AND REMOVAL  
FAMILY AND RESIDENTIAL STANDARDS**

**Files**

Components	Compliant	Not Compliant	Remarks
7. Both General Files and Investigative Files are maintained within the facility for Sexual Abuse/Assault cases. Ref: p. 7; M	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Facility indicates there have been no incidents of sexual assault/abuse/harassment cases reported by or on behalf of residents. There were no files to review in this regard. Policy does not provide information on development of file system.
8. General Files include victims and assailants of a sexual assault, crime characteristics and formal and/or informal action taken. Ref: p. 7; M	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Investigative files include all reports, medical forms, supporting memos and videotapes, and any other evidentiary materials pertaining to the allegation. Ref: pp. 7&8; M	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

OFFICE OF DETENTION AND REMOVAL  
FAMILY AND RESIDENTIAL STANDARDS

Standard: Sexual Abuse/Assault

Facility: Berks

*Reviewer's Notes:*

The facility aims to be in compliance with Standard and has made positive strides. However, lack of resident's awareness regarding rights, limited availability of information regarding behavioral guidelines and expectations, and failure to assign an on-site program coordinator for residents warrants a non compliant rating.

**Compliance Rating:**

☐ **Compliant**  
☒ **Not Compliant**

Reviewer's Signature

b6

Date: 02/18/2009

**COMPLIANCE RATING DEFINITIONS:**

**Compliant** - Facility is operating as required and is found compliant in the majority of general component areas. Facility recommended for passing of the standard with adoption of suggested recommendations, if any. Implementation of suggestions should be documented and available for review.

**Non Compliant** - Facility fails to meet the minimal requirements for effective operation. Facility is recommended to implement suggestions within 90 days of site visit report. Documentation of implementation must be received by ICE/DRO within 90days. Revisit of facility may be warranted.